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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Gary W. Giles

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EXAMINER

HARTMAN JR, RONALD D

ART UNIT

PAPER NUMBER

2121

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/981,949	Applicant(s) GILES ET AL.	
	Examiner Ronald D. Hartman Jr.	Art Unit 2121	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15, 17-61 and 63-75 is/are pending in the application.
- 4a) Of the above claim(s) 26-48 and 72-75 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15, 17-25, 49-61 and 63-71 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Applicant is asked to change "internet" to "Internet" (claims 24 & 70).

Applicant is asked to change "LININ" to "LINUX" (claim 7).

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-15, 17-25, 49-61 and 63-71 are directed to non-statutory subject matter.

As per claim 1, the applicant has amended this claim to read that the computer instructions are embodied on a computer readable medium. However, this does not cure the outstanding deficiency with regards to 35 U.S.C. 101. Specifically, the applicant has claimed a system of software, per se, which is representative of functional descriptive material. This is not statutory subject matter. It is noted that intended use may not be relied upon to overcome an outstanding rejection formed under 35 U.S.C. 101. Also it is noted that claim 1 does not provide for a tangible real world result. Therefore, there are currently 2 separate issues formed under 35 U.S.C. 101, the first being that claim is directed towards a system of software, per se, and the second that there is no tangible real world result claimed.

None of claims 2-15 and 17-25 appear to properly overcome these deficiencies.

As per claim 49, this claim only suffers from one of the deficiencies that claim 1 suffers from. Since this claim does not provide for a system of software, per se, it only suffers from the lack of claiming a tangible real world result.

None of claims 50-61 and 63-71 appear to properly overcome this deficiency.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3, 6-11, 15, 51-57 and 61 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is noted that the applicant has amended several of the aforementioned claims to include a TM symbol for each term questioned. This is not a proper response.

The applicant has claimed several products, which can change over time. That is, Microsoft Windows has evolved over time, and therefore if one were to say that their system utilized Microsoft Windows in 1995, when Windows 95 was current, they would also have coverage using Windows 2000 or Windows NT. The point is that the products the applicant has claimed may *change over time*, and therefore the claims are indefinite.

Therefore, claims 3 and 51 reciting "JAVA", claims 6 and 52 reciting "UNIX", claims 7 and 53 reciting, or rather intending to recite "LINUX", claims 8 and 54 reciting "Windows", claims 9 and 55 reciting "DOS", claims 10 and 56 reciting "Macintosh OS", claims 11 and 57 reciting "CATIA" and claims 15 and 61 reciting "AutoCAD" are all rejected as being indefinite since the underlying products, and function performed thereof, that these terms are meant to convey may change over time.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald D. Hartman Jr. whose telephone number is (571) 272-3684. The examiner can normally be reached on Mon.-Fri., 11:00 - 8:30 pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on (571) 272-3687. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2121

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ronald D Hartman Jr.

Patent Examiner

Art Unit 2121



November 12, 2006

RDH

XRDH
